

**JUN 5 1978**

MICHAEL RODAK, JR., CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1977

—  
**No. 77-1601**  
—

CAMILLE MILLER PERRY  
and  
EUGENIA SUMMERLIN,  
*Petitioners,*

v.

IRENE WILSON, CELIA BUCHANAN,  
JOSEPHINE MATTOX and C. L. HIGGISON,  
*Respondents.*

—  
**RESPONSE IN OPPOSITION TO PETITION FOR  
WRIT OF CERTIORARI**  
—

WILLIAM H. MAJOR  
*Attorney for Respondent,*  
*Celia Wilson Buchanan*

*Of Counsel:*

HEYMAN AND SIZEMORE  
300 Fulton Federal Building  
Atlanta, Georgia 30303  
404/521-2268

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This response is submitted by CELIA WILSON BUCHANAN, one of the Respondents, in opposition to the Petition for the Writ of Certiorari.

The Georgia Court of Appeals ruled in this case that the objection made to the charge of the court at the time of trial was insufficient to properly raise any constitutional question, holding:

“This objection was insufficient to raise any constitutional question as to the law charged, and the

trial court's overruling of the objection was not error. *Elinburg v. The State*, 227 Ga. 246 (179 S.E. 2d 926) (1971)." (Pet. for Cert. at page 4)

The Georgia test, as stated by the Supreme Court of Georgia in *Elinburg v. The State*, 277 Ga. 246 (179 S.E.2d 926) (1971), is that:

"... at least three things must be shown, (1) the statute or the particular part or parts of the statute which the party would challenge must be stated or pointed out with fair precision; (2) the provision of the Constitution, which it is claimed has been violated must be clearly designated; and (3) it must be shown wherein the statute, or some designated part of it, violates such constitutional provision."

This Court has consistently held that it is without power to decide whether constitutional rights have been violated when the federal question sought to be reviewed has not been seasonably raised in accordance with the requirements of state law. *Isidore Edelman v. People of the State of California*, 344 U.S. 357; *Hulbert v. Chicago*, 202 U.S. 275; *Mutual Life Ins. Co. v. McGrew*, 188 U.S. 291. See also Rule 23(f) of this Court.

#### CONCLUSION

It is respectfully submitted that this applicant for certiorari raises no substantial federal question and should be denied.

WILLIAM H. MAJOR  
Attorney for Respondent,  
Celia Wilson Buchanan

Of Counsel:

HEYMAN AND SIZEMORE  
300 Fulton Federal Building  
Atlanta, Georgia 30303  
404/521-2268